

Date of Meeting: July 16, 2014

11

**BOARD OF SUPERVISORS
BUSINESS MEETING
ACTION ITEM**

SUBJECT: **ZOAM 2014-0005, Dog Park - Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance**

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

STAFF CONTACTS: Mark Stultz, Deputy Zoning Administrator
Nicole Dozier, Zoning Administrator
Julie Pastor, Director, Planning and Zoning

PURPOSE: To initiate a Zoning Ordinance Amendment (ZOAM) to permit “Dog Park” in the Planned Development-Housing Zoning District (PD-H3, PD-H4, and PD-H6).

RECOMMENDATION: Staff recommends that the Board of Supervisors (Board) adopt a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance), to initiate ZOAM 2014-0005, to permit “Dog Park” in the PD-H Zoning District.

BACKGROUND:

The use “Dog Park” was first established as a specific use under the Zoning Ordinance with the approval of ZOAM-2002-0001, effective November 4, 2002. The focus of ZOAM-2002-0001 was to provide a comprehensive rewrite of the regulations for the Planned Development-Transit Related Center (PD-TRC) Zoning District. ZOAM-2002-0001 also added “Dog Park” as a Special Exception Use in the PD-TRC Zoning District and added a definition of “Dog Park” to Article 8 of the Zoning Ordinance, which reads as follows:

***Dog Park:** A park that provides a variety of recreational amenities for dogs and persons that may include benches, parking, restrooms, and water fountains. If dogs are to be unleashed, the area must be fenced.*

The addition of “Dog Park” as a specific use to the Zoning Ordinance and its inclusion only in the PD-TRC Zoning District resulted in “Dog Park” not being allowed as a Permitted Use or Special Exception Use in any other Zoning District. Staff and the Board of Supervisors have heard from residents expressing their desire to establish a “Dog Park” on Homeowner’s

Association (“HOA”) common areas in their communities. The County has issued several Zoning Determinations stating that a “Dog Park” is not a Permitted Use or Special Exception Use in the various Zoning Districts within which such communities are located. The County does permit a “Dog Park” as an accessory use to a County Park.

On September 7, 2011 the Board approved a Resolution of Intent to Amend the Zoning Ordinance to allow “Dog Park” as a use within the PD-H Zoning District. On March 7, 2012, the Board reviewed its Strategic Plan and voted 6-3 (Letourneau, Reid and Williams opposed) to remove such a ZOAM from the Board’s work plan. At its May 15, 2013 Business Meeting, the Board unanimously approved a motion to *“amend its Strategic Plan by adding a zoning ordinance amendment allowing private dog parks within the PD-H zoning district and direct staff to add this item to the work plan and timeline for ongoing initiatives as staff resources become available upon completion of current initiatives of the Board.”* At its June 4, 2014 Business Meeting, the Board voted 8-0-1 (Higgins absent) to direct staff to continue forward to complete the existing initiatives identified in the Strategic Plan and to then take up dog parks as a priority.

This item proposes a Resolution of Intent to Amend the Zoning Ordinance to allow “Dog Park” in HOA owned common open space within PD-H Zoning Districts. If such Resolution is adopted, Staff will prepare a draft ZOAM for public hearing, consideration, and recommendation by the Planning Commission, to be followed by Board public hearing and action. This is not intended to allow for commercial dog parks.

ISSUES: The Resolution of Intent to Amend provided in Attachment 1 reflects the Board’s current direction to permit “Dog Park” in the PD-H Zoning Districts if located within common open space that is owned by a HOA. This could be accomplished by an amendment to the Zoning Ordinance’s current definition of “Open space, common”. The amendment would not propose to allow dog parks in commercial areas and would intend to limit such facilities to commonly owned home owner association open space parcels. Staff requests direction from the Board on whether the scope of the ZOAM should be broadened as identified below or as otherwise directed by the Board. The Board can decide to limit the change to the PD-H districts which would include communities such as Lansdowne, South Riding, Brambleton and other planned unit developments. The Board could also decide to add the following additional elements to the scope of the amendment:

1. **Permit “Dog Park” in HOA owned common open space within the Suburban Residential (R) Zoning Districts.** Zoning Administration has responded to one Zoning Determination request that asked whether a “Dog Park” is permitted in the R-16 Zoning District. If the Board chooses this option, Staff would propose developing language to permit “Dog Park” within the HOA owned common open space in the R-1, R-2, R-3, R-4, R-8, R-16 and R-24 Zoning Districts. Staff notes that not all developments located with the R Zoning Districts contain common open space. Staff will have a zoning map available during the discussion of this item and can cite areas that are zoned in this manner should the Board of Supervisors have questions regarding these zoning districts and those identified in Option 2.

2. **Permit “Dog Park” in HOA owned common open space within other Zoning Districts that include residential uses.** If the Board chooses this option, Staff would propose developing language to permit “Dog Park” within the HOA owned common open space in the Joint Land Management Area (JLMA), Transitional Residential (TR), Agricultural Residential (A-3), Agriculture (A-10) and Countryside Residential (CR) Zoning Districts, as well as the Planned Development-Countryside Village (PD-CV), Planned Development-Rural Village (PD-RV), Planned Development-Town Center (PD-TC), Planned Development-Mixed Use Business (PD-MUB), Planned Development-Corridor Mixed-Use (PD-CM), Planned Development-Active Adult/Age Restricted (PD-AAAR) and Agricultural Rural (AR) Zoning Districts.
3. **Establish Additional Regulations for “Dog Park”.** If “Dog Park” is limited to HOA owned common open space, then the regulations applicable to “Dog Park” could be handled separately by the HOAs. However, if left to the HOAs, the County would have no say in whether and/or how an HOA chooses to regulate such use other than requiring a fence as per the definition of “Dog Park,” as currently provided in the Zoning Ordinance. If the Board desires to add regulations for dog parks, then simply amending the definition of “Open space, common” is not recommended, rather the use lists for the various zoning districts would need to be amended to add “Dog Park” as a use subject to such additional regulations. Additional research would need to be conducted as part of the ZOAM process to identify Additional Regulations (performance standards) to apply to the “Dog Park” use. Such performance standards might include, but would not be limited to, fencing, hours of operation, size, waste disposal, and setbacks. Staff requests Board direction on whether or not performance standards need to be developed as part of this amendment.

Broadening the scope of the amendment could increase the complexity of the ZOAM and impact the timeline with respect to drafting the necessary text revisions and managing the ZOAM through the public process.

FISCAL IMPACT: The preparation of ZOAM 2014-0005 can be accommodated with existing staff resources in the Department of Planning and Zoning.

ALTERNATIVES:

1. The Board may adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 1 to the Action Item for the Board of Supervisors July 16, 2014, Business Meeting, to permit “Dog Park” in HOA owned common open space within PD-H Zoning Districts.
2. The Board may adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 2 to the Action Item for the Board of Supervisors July 16, 2014, Business Meeting, to permit “Dog Park” in HOA owned common open space within common open space owned by an HOA within a PD-H Zoning District and/or common open space owned by an HOA within certain other residential zoning districts.

3. Direct Staff to cease work on a ZOAM-2014-0005.

DRAFT MOTIONS:

1. I move that the Board of Supervisors **adopt** the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 1 to the Action Item for the Board of Supervisors July 16, 2014, Board of Supervisors Business Meeting, in regard to “Dog Park”.

OR

2. I move that the Board of Supervisors **adopt** the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 2 to the Action Item for the Board of Supervisors July 16, 2014, Board of Supervisors Business Meeting, in regard to “Dog Park”.

OR

3. I move an alternate motion.

ATTACHMENTS:

1. Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance to permit “Dog Park” in HOA owned common open space within the PD-H Zoning Districts.
2. Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance to permit “Dog Park” in HOA owned common open space in other Residential Zoning Districts.
3. Work Plan for ZOAM-2014-0005, Dog Park.

July 16, 2014

BOARD OF SUPERVISORS OF LOUDOUN COUNTY

RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO PERMIT “DOG PARK” IN HOMEOWNER’S ASSOCIATION (“HOA”) OWNED COMMON OPEN SPACE WITHIN THE PLANNED DEVELOPMENT-HOUSING ZONING DISTRICTS

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Zoning Ordinance currently only permits “Dog Park” as a Special Exception Use in the Planned Development-Transit Related Center (PD-TRC) Zoning District; and

WHEREAS, the Board of Supervisors wishes to initiate amendments to Articles 3, 4, 5, and 8 of the Zoning Ordinance in order to permit “Dog Park” in HOA owned common open space within PD-H Zoning Districts.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Article 8. Definition of “Open space, common”, to specify that a non-commercial “Dog Park” is permitted in HOA owned open space within the PDH Zoning District.
2. If necessary, amend Articles 3 and 4 to implement the foregoing amendments.
3. If necessary, amend Section 5-600 et seq., Additional Regulations for Specific Uses, to establish Additional Regulations for “Dog Park”, to implement the foregoing amendments.
4. If necessary, amend Article 8, Definitions, to revise the definition of “Dog Park”, to implement the foregoing amendments.
5. Amend such other sections of the Zoning Ordinance as may be necessary to fully implement and to maintain consistency with the foregoing amendments, to correct typos and update references, and to achieve the full intent of this Resolution.

BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) staff is directed to prepare draft amendments for consideration; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and Board of Supervisors’ action.

July 16, 2014

BOARD OF SUPERVISORS OF LOUDOUN COUNTY

RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO PERMIT “DOG PARK” IN HOMEOWNER’S ASSOCIATION (HOA) OWNED COMMON OPEN SPACE WITHIN CERTAIN ZONING DISTRICTS

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Zoning Ordinance currently only permits “Dog Park” as a Special Exception Use in the Planned Development-Transit Related Center (PD-TRC) Zoning District; and

WHEREAS, the Board of Supervisors wishes to initiate amendments to Articles 2, 3, 4, 5 and 8 of the Zoning Ordinance as necessary, in order to permit “Dog Park” in HOA owned common open space in certain Zoning Districts.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Article 8, Definition of “Open space, common”, to specify that a non-commercial “Dog Park” is permitted in HOA common open space within the Non-Suburban Districts, such as Countryside Residential (CR-1, CR-2, CR-3, and CR-4), Joint Land Management Area (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), Transitional Residential (TR-10, TR-3, TR-2, and TR-1), Agricultural Residential (A-3), Agriculture (A-10), and Agricultural Rural (AR-1, AR-2) Zoning Districts.
2. Amend Article 8, Definition of “Open space, common”, to specify that a non-commercial “Dog Park” is permitted in HOA common open space within the Suburban Districts in the Single Family Residential (R-1, R-2, R-3, R-4, and R-8), Townhouse/Multifamily Residential (R-16), and Multifamily Residential (R-24), Zoning Districts.
3. Amend Article 8, Definition of “Open space, common”, to specify that a non-commercial “Dog Park” is permitted in HOA common open space within the Special and Overlay Districts in Planned Development-Housing (PD-H3, PD-H4, PD-H6), Planned Development-Countryside Village (PD-CV), Planned Development-Rural Village (PD-RV), Planned Development-Town Center (PD-TC), Planned Development-Mixed Use Business (PD-MUB), Planned Development-Corridor Mixed-Use (PD-CM) and Planned Development-Active Adult/Age Restricted (PD-AAAR), Zoning Districts.
4. If necessary, amend Articles 2, 3 and 4 to implement the foregoing amendments.

July 16, 2014

5. If necessary, amend Section 5-600 et seq., Additional Regulations for Specific Uses, to establish Additional Regulations for “Dog Park”, to implement the foregoing amendments.
6. If necessary, amend Article 8, Definitions, to revise the definition of “Dog Park”, to implement the foregoing amendments.
7. Amend such other sections of the Zoning Ordinance as may be necessary to fully implement and to maintain consistency with the foregoing amendments, to correct typos and update references, and to achieve the full intent of this Resolution.

BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) staff is directed to prepare draft amendments for consideration; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and Board of Supervisors’ action.

July 16, 2014

PROPOSED WORK PLAN

Amendments to the Revised 1993 Loudoun County Zoning Ordinance to Permit Dog Parks in the Planned Development-Housing (PD-H) Zoning Districts

ANTICIPATED START DATE: July 2014

ANTICIPATED PC PUBLIC HEARING DATE: October 2014

GOAL: Comprehensively review and draft amendments to the Zoning Ordinance, as necessary, to permit “Dog Park” in HOA owned common open space within the PD-H Zoning Districts (PD-H3, PD-H4 and PD-H6).

ACTION STEPS	RESOURCES	TIMELINE
1. <i>Establishment of Project Team</i>	Project Manager: TBD Support Staff: as needed	July 2014
2. <i>Board Direction/Scope</i>	Project Manager	July 2014
3. <i>Research</i>	Project Manager	July 2014
4. <i>Draft Ordinance Changes</i>	Project Manager	July –August 2014
5. <i>Referrals – 21 day turn around</i>	Referral Agencies: <ul style="list-style-type: none">• County Attorney• Planning Department• Parks and Recreation• Health Department• Environmental Review Team	August 2014
6. <i>Revise Draft Based on Comments</i>	Project Manager	September 2014
7. <i>Post Draft to Website</i>	Project Manager	September 2014
8. <i>Resolution of Intent to Amend</i>	Board of Supervisors	September 17, 2014
9. <i>Planning Commission Public Hearing</i>	Planning Commission	October 21, 2014
10. <i>Planning Commission Work Session</i>	Planning Commission	TBD
11. <i>Board of Supervisors Public Hearing</i>	Board of Supervisors	November 12, 2014 (Depending on length of PC deliberations)
12. <i>Transportation and Land Use Committee (TLUC) (if necessary)</i>	TLUC	TBD
13. <i>Board of Supervisors Action</i>	Board of Supervisors	TBD